

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PAMELA COLEMAN, individually, and on
 behalf of all others similarly situated,

Plaintiffs,

vs.

CIRCUS CIRCUS CASINOS, INC., et al.,

Defendants.

Case No. 2:04-cv-00747-PMP-GWF

**ORDER AND FINDINGS &
 RECOMMENDATIONS**

This matter is before the Court on Defendants' Motion to Compel Depositions of Rudolph Puckett and Edward Andalia or, in the Alternative, Motion to Dismiss Rudolph Puckett and Edward Andalia's Claims with Prejudice and for Attorneys' Fees and Costs (#129), filed on August 30, 2006; Plaintiffs' Response to Defendants' Motion to Compel Depositions of Rudolph Puckett and Edward Andalia and Reply to Defendants' Motion to Dismiss Rudolph Puckett and Edward Andalia (#133), filed on September 8, 2006; and Defendants' Reply in Support of Motion to Compel Depositions of Rudolph Puckett and Edward Andalia, or in the Alternative, Motion to Dismiss Rudolph Puckett and Edward Andalia's Claims with Prejudice and for Attorneys' Fees and Costs (#137), filed on September 12, 2006. The Court heard this matter on September 14, 2006. For good cause shown,

IT IS HEREBY ORDERED that Plaintiff EDWARD ANDALIA shall have ten (10) days from the date of this order in which to show cause why he should not be dismissed with prejudice as a plaintiff in this action. If Plaintiff ANDALIA wishes to prosecute his claim as a plaintiff in this action, he shall inform his counsel, who in turn shall notify counsel for Defendants so that Plaintiff

1 ANDALIA's deposition may be rescheduled. In the event said Plaintiff does not respond to this order
2 to show cause, **IT IS RECOMMENDED** that he shall be dismissed as a plaintiff with prejudice. A
3 status hearing with counsel is scheduled for **MONDAY, SEPTEMBER 25, 2006 at 11:00 a.m.** to
4 advise the Court whether or not Plaintiff ANDALIA has rescheduled his deposition. If the deposition
5 has been rescheduled, Plaintiff's counsel will notify the Court and the status hearing will be vacated.

6 **IT IS FURTHER RECOMMENDED** that if Plaintiff ANDALIA fails to appear for a
7 rescheduled deposition without good cause, that he be dismissed, with prejudice, as a plaintiff in this
8 action and that the Court impose monetary sanctions for his failure to appear.


9 Plaintiff RUDOLPH PUCKETT, having failed to appear for his deposition, having advised his
10 counsel that he does not desire to prosecute his claim, but having refused to execute a stipulation to
11 dismiss his claim or permit counsel to withdraw on his behalf,

12 **IT IS HEREBY RECOMMENDED** that Plaintiff RUDOLPH PUCKETT's claim be
13 dismissed with prejudice, each party to bear their own fees and costs herein.

14 **NOTICE**

15 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in
16 writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the
17 courts of appeal may determine that an appeal has been waived due to the failure to file objections
18 within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1)
19 failure to file objections within the specified time and (2) failure to properly address and brief the
20 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues
21 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
22 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

23 DATED this 14th day of September, 2006.

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26 GEORGE FOLEY, JR.
27 U.S. MAGISTRATE JUDGE
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